

# Exhibit 1

June 15, 2016 Deposition Transcript of Kevin Stark, Director of  
Product Management of Livevox, Inc.

# VSM REPORTING, LLC



## DEPOSITION of **KEVIN STARK**

**Date:** June 15, 2016

**Case:** LAKISHA T. SMITH v. STELLAR RECOVERY, INC., et al.

**Reporter:** Joanna L. Chavez

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UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Court File No. 2:15-cv-11717-SJM-MKM

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DEPOSITION OF KEVIN STARK

June 15, 2016

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LAKISHA T. SMITH  
Plaintiff,

v.

STELLAR RECOVERY, INC;  
COMCAST CORPORATION;  
COMCAST OF DETROIT LLC  
Defendants.

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LAKISHA T. SMITH v. STELLAR RECOVERY, INC., et al.

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Pursuant to Notice and the Michigan Rules of Civil Procedure, the deposition of KEVIN STARK, taken by Plaintiff, was held at 2 West Dry Creek Circle, Littleton, Colorado, on Thursday, June 15, 2016, at 12:15 p.m. before JoAnna L. Chavez, Court Reporter, and Notary Public for the State of Colorado.

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1 KEVIN STARK,  
2 being first duly sworn in the above cause, was examined and  
3 testified as follows:

4 MR. THOMAS: My name is attorney Stephen Thomas,  
5 I represent the plaintiff in this matter, Ms. Smith. I  
6 would like everybody in the room to introduce themselves,  
7 except for the court reporter, please.

8 MS. PANKRATZ: Chelsey Pankratz for Stellar  
9 Recovery.

10 MS. EMERY: Alison Emery for Stellar Recovery.

11 MR. READ: Nathaniel Read for LiveVox, Inc., and  
12 witness, Mr. Stark.

13 MR. THOMAS: On the telephone?

14 MR. MALLAH: Mark Mallah from LiveVox.

15 MR. THOMAS: Thank you all.

16 EXAMINATION

17 BY MR. THOMAS:

18 Q You're under oath, you understand that?

19 A Yes, sir.

20 Q Could you state your name and spell your last  
21 name for the record?

22 A My name is Kevin Stark, S-t-a-r-k.

23 Q And today I'm going to assume that you're not  
24 under any medication, drug, or alcohol that would prevent  
25 you from testifying truthfully today?

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1 A No, sir.

2 Q Let's go over a couple rules. I'm going to ask  
3 you a series of questions, if you're able to respond, I'm  
4 going to assume that you heard the question and you  
5 understood the question. Fair enough?

6 A Yes, sir.

7 Q Do you live here in Denver?

8 A I live in Highlands Ranch.

9 Q Have you always lived in this area?

10 A No.

11 Q Where are the other places that you have lived?

12 A I lived in Chandler, Arizona, and a few different  
13 places in Southern California, primarily Thousand Oaks.

14 Q Any place else?

15 A No, sir.

16 Q What's your age?

17 A I am 35.

18 Q And last ten years, have you been convicted of a  
19 felony?

20 A No, sir.

21 Q What is your highest level of education?

22 A I have a bachelor's degree.

23 Q From where?

24 A California State University of Northridge.

25 Q And when did you receive your bachelor's degree?

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1 A Summer of 2004.

2 Q 2004. What was the degree again?

3 A Business administration with an emphasis in  
4 management.

5 Q Where do you work now?

6 A I'm currently employed by LiveVox, Inc.

7 Q And what is your position at LiveVox?

8 A I'm the director of product management.

9 Q And what is your responsibility as director of  
10 product management?

11 A Primarily, responsible for taking requirements  
12 from customers, other LiveVox stakeholders, determining  
13 whether or not they should become part of the product  
14 sweep, and, if so, working with our engineering group to  
15 build out those products.

16 Q Now, there was an objection that was filed by  
17 Mr. Read and in the objection in our conference we agreed  
18 that you would be able to provide testimony for the LiveVox  
19 outbound dialing systems that were made between the period  
20 of July 2014 through October 2014. Are you able to provide  
21 that testimony today?

22 A Yes, I am.

23 Q Now, you know we all came out here to Denver  
24 because of you?

25 A Yes, I'm aware of this.



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1 Q Did you review any documents in light of your  
2 testimony today?

3 A Yes.

4 Q What did you review?

5 A I reviewed a call-detail report showing some  
6 phone calls in question and some other documents related to  
7 the type of messaging activity that were used for the calls  
8 in question.

9 Q What was that document? If you can recall?

10 A The call-detail report.

11 Q That's what it's called?

12 A No. I believe it was a phone -- what we call a  
13 phone-lookup report.

14 Q Phone-lookup report?

15 A Yes, sir.

16 Q All right. Anything else?

17 A I was -- I saw the subpoena and some other  
18 documents provided by LiveVox related to the configuration  
19 of the services used to make the calls in question.

20 Q Do you have a copy of the phone-lookup report?

21 A I do not.

22 MR. THOMAS: Do you think you can get that to me?

23 MR. READ: Do you mean the materials that we  
24 produced? That's what he's referring to.

25 MR. THOMAS: That's what it is?

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1 MR. READ: Yes. These were the materials that  
2 were produced in response to the documents.

3 MR. THOMAS: Understood.

4 Q (By Mr. Thomas) Now, between July 2014 through  
5 October of 2014, what systems were used to dial phone  
6 number 313-718-5938?

7 A Can I see the documents?

8 MS. READ: Do you have them for him, sir? I did  
9 happen to bring a copy, but I assume you would have them.

10 MR. THOMAS: All right. All right.

11 Q (By Mr. Thomas) I'm handing you what has been  
12 previously marked as Plaintiff Exhibit 15.

13 A Thank you, sir. I'm sorry, sir, can you repeat  
14 your previous question?

15 MR. THOMAS: Can you read that last question  
16 back, please.

17 (Requested portion of the transcript was read.)

18 A Based on the document I'm reviewing, which I need  
19 to note is dated 5/5/14 through 5/5/16, I'm not sure if  
20 those are exactly the dates that you just said, related to  
21 outbound calls made, I see calls that would have been made  
22 through the LiveVox automated dialing system and separately  
23 through the HCI outbound dialing system.

24 Q (By Mr. Thomas) When you say the automated  
25 system, would that be the right person connect system?

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1 A Yes.

2 Q So let's talk about those two systems. I am  
3 showing you what has been previously marked as  
4 Plaintiff's Exhibit 14. Do you recognize that?

5 A Yes. I am familiar with this document.

6 Q And what is that document?

7 A This is an architecture diagram outlining the  
8 separation of LiveVox outbound dialing systems.

9 Q Now, I had an opportunity to take a deposition of  
10 one of the representatives from Stellar, and we left off  
11 where -- and I wanted to start this question and answer  
12 with Stellar upload numbers that campaign into LiveVox.  
13 Are you familiar with what they do?

14 MS. EMERY: Object to the form. Mischaracterizes  
15 testimony.

16 Q (By Mr. Thomas) You can answer.

17 A I am not intimately familiar with Stellar's  
18 particular operational processes, no. I can talk about the  
19 manner in which LiveVox can receive data from its  
20 customers.

21 Q (By Mr. Thomas) That's fair enough.

22 MR. READ: We just had a technical issue. Can we  
23 go off the record for a minute?

24 MR. THOMAS: Yes.

25 (A break was taken from 12:25 p.m. to 12:29.)

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1 MR. THOMAS: Back on the record.

2 Q (By Mr. Thomas) Now, Mr. Stark, I want you to  
3 testify what you know about, and you were saying how your  
4 protocol is at LiveVox; is that correct?

5 A Correct.

6 Q Go ahead and tell me how it is. How you receive  
7 the data?

8 A Generally speaking, clients will provide files  
9 containing customer information either via FTP, file  
10 transfer protocol, over the Internet, or through a user  
11 interface, we call the LiveVox voice portal.

12 Q Now those systems that you just indicated, are  
13 those -- is that a hardware that they're loaded into?

14 A The system for storing customer information is a  
15 combination of software and hardware.

16 Q And where is that located?

17 A There are -- LiveVox maintains multiple data  
18 centers.

19 Q Okay.

20 A New York City, one in the northwest, it's a  
21 hosted facility --

22 Q You said northwest, do you mean --

23 A Pacific northwest.

24 Q Okay.

25 A I think it is in, like, Seattle or Portland.

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1 Q Okay.

2 A And another in Toronto. Three separate data  
3 centers servicing different customers.

4 Q All right. So Stellar uploads through the  
5 Internet, or another portal, information to those servers,  
6 hardware/software location that you just described?

7 A That's correct. To be clear, Stellar exists  
8 entirely through the New York facility.

9 Q Newark --

10 A New York.

11 Q Okay. Now this software/hardware that you just  
12 described, is any of the hardware located at Stellar?

13 A No.

14 Q None of that is there?

15 A No.

16 Q No hardware there?

17 A That's correct.

18 Q Is any of the software located at Stellar?

19 A No.

20 Q So LiveVox has the hardware and the software for  
21 this campaign, correct?

22 MS. EMERY: Object to the form.

23 A I'm not sure what you mean by campaign.

24 Q (By Mr. Thomas) The HCI calling, the right  
25 person connect calling, the automated calling systems, all

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1 that is located with you at LiveVox?

2 A LiveVox maintains all the hardware and software  
3 for all of its systems.

4 Q All right. What hardware do you have? What  
5 computer systems?

6 A There are many, many, many, systems and many  
7 pieces of hardware within those systems that compromise the  
8 overall LiveVox platform.

9 Q Well, could you tell me which ones that you know  
10 about? IBM? Dell? Gateway?

11 A Primarily, we use Dell servers.

12 Q Okay. Now, the Dell servers, are those  
13 commercial-grade servers?

14 A I couldn't say. I would assume so, but that is  
15 not my role, to provision the actual hardware.

16 Q Is it not the hardware part of the system that  
17 makes the calls?

18 MR. READ: Object to the form.

19 MS. EMERY: Join.

20 A The calls are -- depending on the type of  
21 outbound dialing system we're talking about, the call is  
22 initiated by a combination of potentially human  
23 intervention, hardware, software, all working together. So  
24 I'm not sure -- I don't know how to answer that question.

25 Q (By Mr. Thomas) I'm just trying to find out what

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1 kind of grade this system is. Is it commercial grade, or,  
2 like, residential grade?

3 A This is -- I think it is safe to say that all  
4 equipment at LiveVox is enterprise-commercial grade, meant,  
5 not consumer-grade equipment.

6 Q Now how -- how is the connection between  
7 Stellar -- strike that.

8 Between Stellar and the New York, how does it get  
9 from point A to B?

10 A Over the public Internet.

11 Q Okay. And how many miles is that between the  
12 two?

13 A I don't know.

14 Q Okay. Would it be fair to say that we are  
15 talking about Jacksonville, Florida up to New York?

16 A Our facility is in New York City. I'm not  
17 familiar with all the locations of Stellar. I'm familiar  
18 with Kalispell, Montana, and Jacksonville, Florida, I  
19 believe.

20 Q Do you get information from both of the Stellar  
21 locations?

22 A I don't know.

23 Q Is there any software -- you indicated that  
24 there's software that's housed with LiveVox, correct?

25 A That's correct.

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1 Q Now when we look at the software and the hardware  
2 and Stellar uploads it, is that software-hardware able to  
3 store the information?

4 MR. READ: Objection to the form.

5 MS. EMERY: Join.

6 A There are systems, not outbound dialing systems,  
7 but there are systems that LiveVox designed to store  
8 information provided by our customers, yes.

9 Q (By Mr. Thomas) Okay. So would your equipment  
10 at LiveVox, would it be able to store phone numbers during  
11 the right-person-connect campaign?

12 A During the right person -- the RPC or right party  
13 connect --

14 Q Yes.

15 A -- dialed through the automated dialing system?

16 Q Yes.

17 A Yes.

18 Q So those numbers are stored on your software  
19 and/or hardware, correct?

20 A Can you repeat the question?

21 Q Those numbers, phone numbers or data, is stored  
22 on your software and/or your hardware?

23 MR. READ: Objection to the form.

24 A They are stored on LiveVox servers, yes.

25 Q (By Mr. Thomas) Now with the HCI, which is the



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1 human call initiator, that campaign, is your equipment that  
2 we just spoke about, is it able to store the information  
3 that has been uploaded to it?

4 A No, it does not. Cannot and does not.

5 Q Why can't it store a phone number?

6 A Because it was designed to not do so.

7 Q Does it have the capacity to store numbers?

8 A No, it does not.

9 Q Okay. So that software cannot store a number, is  
10 that what you're saying?

11 A That is what I said, yes.

12 Q So somebody can't go in there and program that  
13 software/hardware to store a number?

14 A That is correct.

15 MR. READ: Objection.

16 Q (By Mr. Thomas) And why was that?

17 A Because it was designed in opposition of that.  
18 It was designed and built, I should say, to not store any  
19 phone numbers.

20 Q And there is no way that it can have the capacity  
21 in the future if I reconfigured it to store numbers?

22 A That's correct.

23 Q Why is that?

24 A Because it was designed in opposition of that.  
25 The system would have to be completely torn down and

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1 rebuilt as something new for any number storage to be  
2 present.

3 Q So according to your testimony, it can be torn  
4 down, reconfigured to store numbers?

5 MR. READ: Objection. Calls for speculation.

6 A No, I would not say it that way at all. No. The  
7 system would have to be destroyed and something new  
8 constructed. HCI cannot store numbers with any -- there is  
9 nothing that can be added, activated, deactivated to that  
10 system that would allow for number storage within the HCI  
11 dialing system.

12 Q (By Mr. Thomas) Now looking at Exhibit No. 14,  
13 do you see where it says, File input from the manager?

14 A I see this.

15 Q Okay. And then it goes from the file input to  
16 the campaign database, correct?

17 A I see that, yes.

18 Q Okay. And that campaign database, exactly what  
19 is that?

20 A It's a server-running database-management  
21 software.

22 Q Okay. And does that campaign database, is it  
23 able to store numbers?

24 A The campaign database can store numbers, yes.

25 Q And where is that located?

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1 A The physical server would be located in  
2 New York City.

3 Q So the campaign database in New York has the  
4 capacity to store phone numbers, correct?

5 A That's correct.

6 Q And it does?

7 A And it does.

8 Q And that's in New York City, correct?

9 A Correct.

10 Q All right. Now the automated Queuer Dialer, it  
11 gets information from the campaign database, correct?

12 A The automated system gets information from the  
13 campaign database, yes.

14 Q And the Preview-All Queuer gets it from the  
15 campaign database, correct?

16 MR. READ: I'm just going to object, it's outside  
17 the scope, but if you know the answer, go ahead.

18 A I don't -- I would have to speculate.

19 Q (By Mr. Thomas) I'm looking at a Preview-All  
20 accounts, and it shows a purple line going to the  
21 Preview-All.

22 MR. READ: Is there a question?

23 Q (By Mr. Thomas) So the Preview-All gets it from  
24 the campaign database, correct?

25 MR. READ: Same objection.

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1 A I don't know.

2 Q (By Mr. Thomas) The Preview-All Queuer has to  
3 get information from somewhere to function, correct?

4 A Correct.

5 Q Okay. Where does it get its information?

6 A From the agent initiating the calls. I would  
7 like to correct my previous statement. The Preview-All  
8 system will store numbers from the campaign database, yes.

9 Q Okay. There is a line from the campaign database  
10 to the HCI Queuer, correct?

11 A I see the blue line, yes.

12 Q All right. And we already established that the  
13 campaign database has the capacity to store numbers?

14 A Campaign database has the capacity to store  
15 numbers, yes.

16 Q And those stored numbers appear to then go to the  
17 HCI Queuer?

18 A I see the line, and I see the similarity to the  
19 line, the purple line for Preview-All. I think that that  
20 is an incorrect depiction of the architecture of the  
21 platform.

22 Q And why is that?

23 A Because the HCI dialing system does not store  
24 numbers whatsoever.

25 Q Now it shows that the -- there's Queuer 110, 111,

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1 112, above the HCI Queuer. Do you see that?

2 A I do.

3 Q And it appears to be three boxes, do you see  
4 that?

5 A I do.

6 Q What's represented by those three boxes?

7 A Those are intended to depict Queuer server  
8 instances.

9 Q Okay. So the Queuer server would be able to  
10 store numbers, correct?

11 A No, that's not correct. Not in the HCI dialing  
12 system, no.

13 Q No, in the Queuer?

14 A Queuer is a generic component within the  
15 platform, across the platform. The Queuer instances within  
16 the HCI cloud do not have any capacity to store numbers  
17 whatsoever.

18 Q And it's my understanding, and correct me if I'm  
19 wrong, that there is a clicker or a Queuer who looks at a  
20 number and clicks it for a campaign. Are you familiar with  
21 that?

22 A I would not use those terms, clicker and Queuer  
23 synonymously, they are very different.

24 Q Okay. What would you describe it as?

25 A Could you ask the question again? I'm not sure I

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1 understood the question.

2 Q Sure. My understanding is that at Stellar  
3 there's a person who clicks on a number, a phone number,  
4 and it gets sent to you to be dialed. Is that a fair  
5 statement?

6 A There is a clicker agent who is responsible for  
7 initiating calls, yes.

8 Q And he or she clicks on a phone number, correct?

9 A They click on a screen with an image that is  
10 depicting a phone number to be dialed, yes.

11 Q And that number is stored in the software at  
12 Stellar?

13 A No, there's no software at Stellar.

14 Q Well, what are they clicking on? They see a  
15 number, correct?

16 A They do see a number.

17 Q Well, if they see a number, isn't that number  
18 being stored in some software at Stellar?

19 A No, it's not.

20 Q How does it appear on the screen?

21 A It's being stored in the campaign database, and  
22 it's presented to the agent via the ACD.

23 Q What is the ACD?

24 A The ACD stands for automated call distribution --  
25 excuse me -- automated call distributor.

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1 Q Okay. So the number is in the automated call  
2 distributor?

3 A That's correct.

4 Q So the ACD has the capacity, and it, in fact,  
5 does store numbers?

6 A The ACD presents the numbers to the agent based  
7 on the data, which is stored in the campaign database.

8 Q So it stores numbers?

9 A The campaign database stores numbers.

10 Q What about the ACD? Does it have the ability to  
11 store numbers?

12 A Yes.

13 Q Okay. So when the -- what's the term that you  
14 use for the person who clicks on the number? What do you  
15 call that person?

16 A I call them the clicker agent or the call  
17 originator.

18 Q The clicker agent, let's use that.

19 A I'm comfortable with that term.

20 Q All right. When the clicker agent clicks on a  
21 number, that number is stored where? In the ACD and also  
22 in the campaign database?

23 A Storage is solely limited to the campaign's  
24 database for number storage.

25 Q And where is the -- repeat your answer.

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1 MR. READ: That's all right. You can read it.

2 (Requested portion of the transcript was read.)

3 Q (By Mr. Thomas) Are there numbers stored in the

4 ACD?

5 A There are no numbers stored in the ACD in any  
6 type of persistent storage.

7 Q When you say, Persistent storage, what do you  
8 mean?

9 A Meaning hard drives written to disc, like, what  
10 would exist in a database.

11 Q But it does store, correct?

12 A When we say numbers, I assume we're meaning  
13 telephone numbers, may maintain them in memory for the  
14 purpose of presenting them to the agent.

15 Q And that's storage, correct?

16 MR. READ: Objection to form. You can answer.

17 A Depends on how you want to define storage.

18 Q (By Mr. Thomas) How do you define storage?

19 A Persistent versus in memory, temporary storage.

20 Q Okay. What's persistent memory?

21 A Persistent would be a hard drive used to store a  
22 file for some period of time. In memory would be ram used  
23 to store something for a very short period of time at which  
24 point it's lost.

25 Q Where is the ACD located, physically located?



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1 A In the New York data center.

2 Q Now, during the HCI campaign -- during July and  
3 October, that period of time, how many calls were  
4 generated, using that system through Stellar, per day?

5 A I have no -- I don't know that information. I  
6 have no idea.

7 Q You have no idea?

8 A I don't know.

9 Q At the beginning of the testimony, you indicated  
10 that you would be able to indicate the outbound dialing  
11 system used, and you don't know the number of calls that  
12 were done on a day-to-day basis?

13 A I don't know the number of calls made on a daily  
14 basis across all systems, across all of our clients, or  
15 even just Stellar in particular.

16 Q Okay. The system what -- what's the most it can  
17 generate on a day-to-day basis?

18 A Can you rephrase that question?

19 Q Okay. Using the HCI system, what's the most  
20 calls that can be generated that LiveVox will send to  
21 customers?

22 MR. READ: Objection to the form.

23 A I don't know that there is a limit.

24 Q (By Mr. Thomas) Okay. So it's unlimited?

25 A I didn't say that, but I don't know what the

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1 limit would be.

2 Q Okay. What about on the RPC, the right person  
3 connect, do you know the number that can be dialed on a  
4 day-to-day basis with that system?

5 A I don't know that number.

6 Q Now it's fair to say that during the campaign  
7 none of the employees from Stellar would be in New York,  
8 they would be at their own location, correct?

9 A I think that is safe to say, yes.

10 Q So they would be working remotely, correct?

11 MR. READ: Objection to form.

12 MS. EMERY: Objection to form.

13 A They don't need to be in New York to be  
14 interacting with LiveVox. Where they are is completely up  
15 to Stellar.

16 Q (By Mr. Thomas) So it's done remotely, correct?

17 A Remote to New York City?

18 Q Yes.

19 A It could be anywhere.

20 Q Right. So it can be done, and it's done  
21 remotely. It's not done in New York City, correct?

22 A Stellar agents are not in our facility in  
23 New York City.

24 Q So they are accessing the equipment remotely?

25 A Correct.

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1 Q All right. Now the equipment that you have in  
2 New York on the campaign, that equipment was paid for by  
3 LiveVox, right?

4 MR. READ: Can you repeat that question, if you  
5 want him to answer that? You can have her read it back.

6 MR. THOMAS: Yeah, sure.

7 (Requested portion of the transcript was read.)

8 MR. READ: Object to the form. You can answer.

9 A Can you clarify the use of, On the campaign?

10 Q (By Mr. Thomas) The campaign for Stellar that  
11 used the HCI, the right party connect, that equipment is  
12 not owned by Stellar, it is owned by LiveVox, and they  
13 purchased that equipment?

14 A To the best of my knowledge, LiveVox purchased  
15 all their own equipment, that's correct.

16 Q Now, it indicates on Exhibit 14, Media server  
17 pool, can you explain that? What is that?

18 A The media server is a component of the LiveVox  
19 platform that interfaces with the carriers that LiveVox  
20 uses.

21 Q And where is it located?

22 A New York.

23 Q Now do you see the column that has Manual, HCI  
24 Preview-All, and Automated? Do you see that column?

25 A I see four different systems, yes.

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1 Q And those are not located in New York, are they?

2 A All equipment is located in New York.

3 Q So the equipment in New York -- and I'm referring  
4 to the entire system, if you will, which would include the  
5 ACD, the campaign database, and the media server pool; can  
6 we refer to that as the dialing system?

7 MR. READ: Objection to the form.

8 A Definitely not.

9 Q (By Mr. Thomas) What do you call it?

10 A The platform.

11 Q The platform? Okay. So we will use it as the  
12 platform?

13 A Actually, I would like to correct that. I  
14 consider this -- my vernacular would be, this is a  
15 collection of distinct dialing systems.

16 Q And each of the dialing systems is used as the  
17 media server pool, correct?

18 MR. READ: Objection to the form.

19 A I believe, actually, that presently, each system,  
20 each outbound dialing system connects to a distinct and  
21 separate media server pool despite what this document  
22 shows.

23 Q (By Mr. Thomas) What about July 2014 through  
24 October 2014? How was the system set up then?

25 A I'm not sure.

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1 Q Okay. So the dialing systems have the capacity  
2 to produce numbers, correct?

3 MR. READ: Object to form.

4 MS. EMERY: Object to form.

5 Q (By Mr. Thomas) How do the numbers get to the  
6 carrier?

7 MR. READ: Objection to form.

8 A Which dialing system are you referring to?

9 Q (By Mr. Thomas) You can go through each one of  
10 them.

11 A So in the manual dialing system, an agent enters  
12 a full ten-digit number, completely manually, initiates a  
13 dialing request, which is then sent to the media server.

14 Q Okay. The agent enters the ten-digit number,  
15 correct?

16 A Correct.

17 Q And the agent then clicks on that number,  
18 correct?

19 A They type in the ten-digit number and hit enter,  
20 or click dial, but they enter the full -- all ten digits  
21 and then initiate the call.

22 Q Okay. So the agent is -- strike that.

23 The numbers are entered into the system once, and  
24 then the agents click on those numbers, correct?

25 MR. READ: Objection to the form.

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1           A     If we are still referring to the manual outbound  
2 dialing system, no.

3           Q     (By Mr. Thomas) So every time they make a phone  
4 call, it is your testimony that they put in the ten-digit  
5 number every single time?

6           A     Within the manual dialing system, every dial is  
7 entered all ten digits every time, 100 percent of the time,  
8 yeah.

9           Q     What about the HCI?

10          A     Within the HCI system, the calls are launched via  
11 click by the clicker agent.

12          Q     So they were already placed in the system by an  
13 agent, correct?

14          A     No.

15          Q     Well, how did they get into the system?

16          A     They were presented to the agent via the ACD.

17          Q     How did they get into the ACD?

18          A     From the campaign's database.

19          Q     So somebody put them in the campaign database,  
20 correct?

21          A     That's correct.

22          Q     And then they look at the ACD and then click on  
23 the number, correct?

24                 MR. READ: Objection to form.

25          A     The agent is only logged into the ACD. The agent

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1 is logged into the ACD, they are presented with numbers and  
2 given the decision whether or not to launch the call. If  
3 they do, then the request is sent into the HCI dialing  
4 system. The request is sent by the agent to the HCI  
5 dialing system.

6 Q (By Mr. Thomas) Okay.

7 A But as I stated earlier, there are never any  
8 numbers stored within the HCI outbound dialing system.

9 Q They are stored in the campaign database or the  
10 ACD, correct?

11 A That's correct.

12 Q All right. And then they're clicked at the HCI  
13 level and then sent to LiveVox to be dialed?

14 MR. READ: Objection.

15 A I would not -- certainly not state it that way.

16 Q (By Mr. Thomas) How would you state it?

17 A The agent is presented with numbers to dial from  
18 the ACD. If the agent chooses to launch the call, the  
19 agent's request is then sent to the HCI system.

20 Q Which is a one click?

21 A That is one click.

22 Q And it is sent where?

23 A To the HCI -- the request to dial request is then  
24 sent to the HCI outbound dialing system.

25 Q And how fast does that take?

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1           A     How fast does what take?

2           Q     The time that the agent clicks on the number, and  
3     it is sent outbound?

4           A     Less than a second.

5           Q     So theoretically the agent could click several  
6     times, and it would be sent out?

7                     MR. READ: Object to the form.

8           A     I didn't understand the question.

9           Q     (By Mr. Thomas) Okay. The agent can literally  
10    sit at his or her station and click numbers to be sent out  
11    rapidly. Within five seconds, they can do 20?

12          A     The clicker agent does rapidly launch calls via a  
13    single click, yes.

14          Q     When you say, Rapidly launch, tell me what that  
15    means?

16          A     So the ACD will present numbers to the clicker  
17    agent based upon the availability, and only based on the  
18    availability of what we call closer agents. If there are  
19    closer agents -- and closer agents are defined as agents  
20    who will speak with the customer.

21                     If there are closer agents available, the ACD  
22    will present numbers to the clicker agent, and the clicker  
23    agent can decide whether or not to launch that call.

24          Q     So if there's no agents available, the numbers  
25    won't be sent over to the HCI clicker, correct?



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1           A     That's correct.

2           Q     Okay. Is it conceivable that the HCI at Stellar  
3 can launch 3,500 clicks in a day?

4                     MR. READ: Objection to the form.

5           A     Can you repeat the question?

6           Q     (By Mr. Thomas) Is it conceivable that the  
7 agent, the clicker agents as a group, can launch 3,500  
8 clicks per day in an eight-hour period?

9                     MR. READ: Objection to the form.

10          A     I still don't understand if we're talking about  
11 one agent or many agents.

12          Q     (By Mr. Thomas) Okay. The system, the HCI  
13 system with its agent, can launch 3,500 calls in a given  
14 day, eight-hour period, correct? The system can handle  
15 that?

16          A     The system could -- the system could handle 3,500  
17 calls in a day if there were adequate inventory, if there  
18 were enough agents, there are a lot of variables that go  
19 into kind of estimating any of those productivity metrics.

20          Q     But it could be done, correct?

21                     MR. READ: Objection to the form. I believe he  
22 just answered that. Do you have anything to add to your  
23 last answer?

24                     THE DEPONENT: I don't. Do you guys mind if we  
25 took five?

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1 MR. THOMAS: No problem.

2 (A break was taken from 1:05 p.m. to 1:11 p.m.)

3 MR. THOMAS: Back on the record.

4 Q (By Mr. Thomas) If I can ask you this: How long  
5 have you worked for LiveVox?

6 A My start day was approximately December 1st,  
7 2007.

8 Q Thank you. Just so I'm clear, on Exhibit 14,  
9 from the ACD and the campaign database all the way over to  
10 the media server, all of that hardware/software is in  
11 New York, correct?

12 A That's correct.

13 Q And would it be fair to say that the ACD, the  
14 campaign database, the HCI, the Preview-All, and automated  
15 and media server on different campaigns all work together?

16 A No, certainly not.

17 Q The ACD and the HCI and the media server pool,  
18 they work together, do they not?

19 A I wouldn't say it that way. I would say that  
20 through agent activity, information is sent between the  
21 systems, but I wouldn't say that they communicate with each  
22 other per se.

23 Q If you took out the HCI -- if you took that piece  
24 out of the equation, there would be no numbers that would  
25 be able to be dialed or sent to the carrier by the media

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1 server, correct?

2 MR. READ: Objection to the form.

3 A Can you ask that another way?

4 Q (By Mr. Thomas) Okay. So we got the ACD and the  
5 HCI and the media server pool. If the HCI had a failure, a  
6 system failure, then there would be no way that numbers  
7 would be dialed, connected for the consumer, correct?

8 A If the HCI dialing system went down completely,  
9 then the entire HCI dialing system would be down and no HCI  
10 calls would go out.

11 Q Okay. And if the media server pool went down,  
12 then -- and HCI was still up and running, there would be no  
13 way to generate calls on the HCI system, correct?

14 A If the media server pool were down completely,  
15 then any attempt to launch calls through the HCI -- the HCI  
16 dialing system would be unable to reach the carriers.

17 Q And if the ACD went down, power failure went  
18 down, heaven forbid some terrorist or something like that,  
19 then the HCI would not be able to launch numbers or send  
20 numbers to the media server pool?

21 MR. READ: Objection to the form.

22 A If ACD went down, there would be no agent  
23 activity to launch -- to trigger HCI calls.

24 Q (By Mr. Thomas) So you have to have the ACD up  
25 and running, the HCI up and running, and the media server

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1 pool up and running to generate calls using that system,  
2 the ACI system, correct?

3 A All three of the systems you just mentioned must  
4 be up and operational in order for the HCI dialing system  
5 to function.

6 Q All right. And now, could the campaign database  
7 go down or does it have to be up and running to have the  
8 HCI campaign working?

9 A Campaign database is necessary as well to  
10 communicate between the campaign database and ACD.

11 Q So to launch on the HCI, you have to have the  
12 campaign database up and running, you have to have the ACD  
13 up and running, you have to have the HCI Queuer up and  
14 running, and you have to have the media server pool up and  
15 running to launch calls using the HCI system, correct?

16 A That's correct.

17 Q To have the right person connect up and running,  
18 you would have to have the campaign database up and  
19 running, correct? You would have to have the right party  
20 connect up and running, Queuer up and running, the ACD up  
21 and running, and the media server up and running for it to  
22 launch the right party connect?

23 A I wouldn't say it that way.

24 Q How would you say it?

25 A In order for the automated outbound dialing

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1 system to function, the campaign database would need to be  
2 alive, active; the Queuer within the automated dialing  
3 system would need to be up and running; the media servers  
4 would need to be up and running. ACD is not necessarily  
5 required in all instances, yeah.

6 Q Okay. Now the automated system, that's an  
7 automated-telephone-dialing system, correct?

8 MR. READ: Objection. Calls for a legal  
9 conclusion.

10 Q (By Mr. Thomas) If you can, go ahead and answer.

11 A I'm not able to answer that.

12 Q Okay. It's a predictive dialing, correct?

13 A It has predictive functionality, yes.

14 Q Has predictive functionality, which makes it a  
15 predictive dialing?

16 A The automated dialing system, I'm comfortable  
17 saying, is a predicted dialer, yes.

18 Q Okay. So just so I'm clear, what needs to be up  
19 for the HCI system to work?

20 A As I believe I just said, the campaign's database  
21 needs to be alive and healthy, the ACD needs to be alive  
22 and healthy, the servers within the HCI dialing system  
23 itself need to be alive and healthy, the media server pool  
24 needs to be alive and healthy.

25 Q Okay. Now, there were no manual calls made to

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1 Ms. Smith during this campaign, correct?

2 A Can I look at the document one more time?

3 Q Absolutely.

4 MR. THOMAS: Let's go off the record.

5 (Recess from 1:19 p.m. to 1:20 p.m.)

6 MR. THOMAS: Back on the record.

7 Q (By Mr. Thomas) So there were no manual campaign  
8 calls as it relates to my client, Ms. Smith?

9 A All of the HCI calls are manually initiated by a  
10 human being. But if we're talking about manual as this  
11 separate outbound dialing system in Exhibit 14, then no  
12 there were no manual -- let me rephrase. There were no  
13 dials that I can see from this report that went through the  
14 manual outbound dialing system.

15 Q So when my client's number was dialed, nobody  
16 cued in, you know, 3, 1, 3, 7, 1, 8, 5, 9, 3, 8, send?

17 A That's correct.

18 Q So how -- how are the lines connected from  
19 Stellar to New York, be it just the Internet?

20 A I'm not -- LiveVox offers a variety of ways for  
21 the agent to audio -- to be established between the agent  
22 and New York. I don't know exactly how Stellar is  
23 configured.

24 Q Now the equipment in New York, and I refer to it  
25 as the dialing system, I think you call it the platform;

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1 what do you feel comfortable calling it?

2 A The platform.

3 Q The platform in New York, does it have the  
4 capacity to broadcast a certain caller ID number?

5 A Each of the outbound dialing systems has the  
6 capacity to broadcast a caller ID with the outbound calls.

7 Q Does the platform have the capacity to block  
8 outbound calls for numbers that are listed on the federal  
9 do not call list?

10 MS. EMERY: Object to the form.

11 MR. READ: Same.

12 A It's not -- that's not a service that LiveVox  
13 offers, no.

14 Q (By Mr. Thomas) That wasn't my question. Does  
15 the platform have the capacity to detect numbers that are  
16 on the federal do not call list?

17 A If a client were to provide us with that list and  
18 all the phone numbers in it, then each of the independent  
19 dialing systems could -- yes, each of these separate  
20 dialing systems could look at that DNC, or do not call  
21 list, provided by our client and block numbers.

22 Q Block numbers?

23 A Block dials.

24 Q Block dials. Okay. Does the platform have the  
25 capacity to block dials or make calls to certain time

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1 zones? For example, can it block calls made to a certain  
2 time zone before 9 a.m.?

3 A Each of the outbound dialing systems has the  
4 capacity to -- has the ability to block dials that are  
5 outside of client-defined windows, yes. Each of the  
6 systems does.

7 Q How many lines does LiveVox dedicate for the  
8 campaigns with Stellar?

9 A We don't define capacity per client, it's a  
10 shared-resource model. So Stellar, for example, isn't  
11 assigned X number of lines or trunks or anything like that.

12 Q How many lines or trunks does LiveVox have?

13 A I don't know that.

14 Q More than five?

15 A Oh, yes.

16 Q More than 50?

17 A Yes.

18 Q More than 500?

19 A Yes.

20 Q Stop me any time. More than a thousand?

21 A Yes.

22 Q More than two thousand?

23 A Yes.

24 Q Well, I don't want to keep going. Just tell me.

25 A I would say, if I were estimating, because I do



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1 not have first-hand knowledge of this, in excess of 20,000.

2 Q The servers in New York, are they rack-mounted?

3 A I have never been to the New York facility, but I  
4 believe they are, yes.

5 Q So they're expandable. The equipment in  
6 New York, you can add to it to make it larger, increase the  
7 capacity?

8 A We can add additional services needed to manage  
9 business, yes.

10 Q Is there a security system for the equipment in  
11 New York?

12 A Yes.

13 Q Locks on doors?

14 A Again, I have never been there. My understanding  
15 is that it is state of the art.

16 Q Okay. Alarm systems?

17 A I would assume.

18 Q Is there -- if a power failure happened at  
19 LiveVox, is there a backup power system for the platforms?

20 A There are multiple backups for power.

21 Q Now, when there is a connect using the platform,  
22 does the platform have the capacity to detect whether or  
23 not it's a live person or not?

24 MR. READ: Objection to form.

25 A I cannot use the word "platform" in that context.

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1 I can say that the outbound dialing systems -- hold on.  
2 Yes -- all right. Each of the outbound dialing systems has  
3 the capacity to determine if a live connect is reached.

4 Q (By Mr. Thomas) All right. Do the outbound  
5 dialing systems have the capacity to detect whether it's  
6 reached a voicemail?

7 A I apologize, I misspoke, I need to clarify my  
8 last answer.

9 Q Please.

10 A To the best of my knowledge, it is the media  
11 server outside of the dialing system which performs live  
12 answer and voicemail detection.

13 Q So the media server has the capacity to determine  
14 whether it's a live person or not?

15 A Yes.

16 Q And the media server has the capacity to  
17 determine whether or not it has reached a voicemail or not?

18 A It has that capacity.

19 Q And it has the capacity to determine whether or  
20 not it's reached an answering machine or not?

21 A That's correct.

22 Q It has the capacity to determine whether the  
23 phone that's reached is busy?

24 A Yes.

25 Q Now, when there is --

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1           A     I'm sorry. I need to clarify. For busy  
2     detection, the media server does not do that, the carrier  
3     will respond to us and say, this number is busy.

4           Q     All right. Just like the outbound dialing  
5     systems are able to not make calls before 9:00 or after  
6     8:00 at night, does it have the capacity to do scheduled  
7     dialing?

8           A     No.

9           Q     So the automated system can't be configured to do  
10    scheduled dialing, like call at this time, at 2:00 in the  
11    afternoon?

12          A     It is not part of the function of the dialing  
13    system.

14          Q     So it doesn't have the capacity to be configured  
15    to do that?

16          A     It does not.

17          Q     Does LiveVox provide training to Stellar?

18          A     I can't speak to what we have given them. I know  
19    LiveVox has a training department.

20          Q     Okay. Once there is a connect, the outbound  
21    dialing system hits a live person -- a live consumer, it  
22    then has the capacity to route the number to an agent?

23          A     No.

24          Q     How does the -- how does the call, once there is  
25    a connect, get to the agent at Stellar?

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1           A     That's the function of the ACD, the automated  
2     call distributor.

3           Q     So when there's a live person, the ACD then  
4     directs it to an agent?

5           A     Well, once a live person is detected, ACD is  
6     notified and an agent is selected.

7           Q     And the outbound dialing system, does it have the  
8     capacity to leave a message?

9           A     It depends on which outbound dialing system we  
10    are talking about.

11          Q     I'm only talking about capacity now.

12          A     Understood.

13          Q     So which dialing systems have the capacity to  
14    leave a message?

15          A     Just the automated outbound dialing system.

16          Q     Outbound dialing system, what are you referring  
17    to?

18          A     I'm sorry if I misspoke. The automated outbound  
19    dialing system is the only one with the capacity to trigger  
20    any type of prerecorded message.

21          Q     I'm showing you what has been previously marked  
22    as Plaintiff's 16. Do you recognize that?

23          A     I do.

24          Q     And this -- would you agree with me -- let's go  
25    to page 3. Let me know when you're there.

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1           A     I'm at the page entitled, Skill, Comcast HCI  
2     50808.

3           Q     And before we get there, what is Exhibit 16?

4           A     This appears to be four pages outlining what I  
5     would refer to as call flows for RPC, inbound, HCI, and  
6     another inbound payment-line service.

7           Q     Okay. And this -- these -- this Exhibit 16 are  
8     LiveVox records, correct?

9           A     I'm not sure how you define LiveVox records. I  
10    believe these were provided by LiveVox at your request.

11          Q     So they are LiveVox business records, correct?

12          A     That's probably a fair statement, yes.

13               MR. READ: We would so stipulate. That's not  
14    controversy.

15          Q     (By Mr. Thomas) Now, the RPC is configured to  
16    follow the flow chart on page 1, correct?

17          A     Correct.

18          Q     And going to page 3, the HCI is configured to  
19    follow this flow chart, correct?

20          A     Correct.

21          Q     And with the HCI, the call is started, and if it  
22    reaches an answering machine, the call is ended?

23          A     That is correct, although I need to state one  
24    thing to be clear. This is the call flow, this is what the  
25    flow could be. This isn't to say that on every single HCI

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1 dial that was made on the record here, answering machine  
2 detection was enabled. Client could have enabled it, they  
3 may have disabled it, I can't say that for certain. If it  
4 were enabled, then yes you would see this call flow.

5 Q And it's your testimony that the call flow, when  
6 there is no answering machine, it goes to an operator  
7 transfer, which is the agent, correct?

8 A That's correct.

9 Q And the software on the Comcast HCI was  
10 configured this way so that it would not leave a  
11 prerecorded message on the answering machine, correct?

12 MR. READ: Objection to the form.

13 A There are several layers of protection  
14 architected within the HCI outbound dialing system to  
15 ensure there is no prerecorded or artifical messages left  
16 by that outbound dialing system.

17 Q And that was deliberately done not to leave  
18 prerecorded messages on answering machines?

19 A Prerecorded messages on answering machines or to  
20 live people, prerecorded or artifical messages of any kind  
21 at all. They are absolutely forbidden within the HCI  
22 outbound dialing system.

23 Q And a programmer configured it to work that way,  
24 correct?

25 A Correct.

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1 Q Okay. And a programmer could have programmed it  
2 to leave a message on an answering machine?

3 MR. READ: Objection. Calls for speculation.

4 A No, because we told them not to.

5 Q (By Mr. Thomas) I understand that. You told  
6 them not to, and they didn't do that, but a programmer  
7 could have programmed it to do that?

8 A Sure. When we built HCI, we could have built the  
9 application, built the outbound dialing system such that  
10 automated or prerecorded messages could have been left. We  
11 could have done that. We did not, but we could have.

12 Q Does the dialing -- outbound dialing system have  
13 the capacity to scrub for cell phones prior to making  
14 calls?

15 A It is not a function of the outbound dialing  
16 systems, no.

17 Q I didn't ask its function, I asked if it has the  
18 capacity?

19 A No.

20 Q So it doesn't have the capacity to be programmed  
21 to read if there's a cell phone, not to allow it to go  
22 through the automated system, it can't be configured to  
23 stop that for any reason, TCPA reasons or any reason?

24 MR. READ: Objection to the form. Go ahead and  
25 answer.

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1           A     The outbound dialing system does not have  
2     cell-phone-scrubbing capacity -- does not nor could it.

3           Q     (By Mr. Thomas) Once the call leaves the media  
4     server pool going to the carrier, how long does it take to  
5     connect with a customer?

6           A     It depends, and it's primarily based on how many  
7     rings before the customer picks up the phone.

8           Q     To get the first ring, pretty quick?

9           A     I would believe so, yes.

10          Q     Once a party is connected, does the outbound  
11     dialing systems have the capacity to place -- once the call  
12     is answered, to place the customer on hold while the system  
13     attempts to find an available agent?

14          A     Can you repeat the question?

15          Q     Yes. Once the party is connected, once they  
16     answer, does the system have the capacity to put the person  
17     on hold while the system attempts to find an operator/rep  
18     that's available?

19          A     No. The outbound dialing systems don't do that.

20          Q     So if there is a connection and there is no  
21     agents available, what happens to the call?

22          A     They would be placed on hold by the media server  
23     pool, which is outside the outbound dialing system.

24          Q     So the media pool has the capacity to put the  
25     customer on hold?



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1 A The media server pool has that capacity, yes.

2 Q Does the media service -- server pool have the  
3 capacity to play music?

4 A For the automated outbound dialing system --

5 Q No. I'm just talking about the media server  
6 pool, that equipment, does it have the capacity to play  
7 music?

8 A Yes.

9 Q Does it have the capacity to be silent?

10 A Yes.

11 Q Does it have the capacity to have a 90-second  
12 pause before it's transferred to an agent?

13 A What do you mean by that?

14 Q Okay. We're just talking about capacity now.

15 A Yeah.

16 Q When the media server pool connects with a  
17 customer, it has the capacity to play music, correct?

18 A Yeah. I need to amend my previous statement. So  
19 the media server pool, and remember this document, as I  
20 already stated, I believe, is not indicative of present  
21 architecture --

22 Q Okay. I don't want to cut you off, but I'm only  
23 referring to what was going on in 2014?

24 A Okay. So the media server pool, to the best of  
25 my knowledge, 2014, only had the capacity to play music --

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1 Q Music.

2 A -- or any type of audio to the customer if it was  
3 interacting with the automated dialing system.

4 Q So would it be fair to say that it could be  
5 configured to be silent, not to play the music?

6 A The customer could configure that, yes.

7 Q Could the customer configure it to have a  
8 90-second transfer before it transferred to an agent to be  
9 configured?

10 A No. I don't believe there is any way for a  
11 customer or client of LiveVox to force some arbitrary hold  
12 time if there was an agent available.

13 Q So you are saying that it didn't have the  
14 capacity to do a technique if there's a message that says,  
15 Please hold, we have an important message for you, and then  
16 that person holds for a certain period of time and then the  
17 agent comes on? Your testimony is that it does not have  
18 that capacity?

19 A I must have misunderstand your question. For the  
20 automated dialing system, that type of strategy is  
21 possible, yes.

22 Q Does the outbound dialing system have the  
23 capacity to ring so many times before it disconnects?

24 A Which outbound dialing system?

25 Q Any of them. For example, can it say, We'll ring

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1 three times and we'll hang up, or we'll ring five times and  
2 then hang up?

3 A Yes, actually, they all do. They all do.

4 Q Does the outbound dialing system make mistakes,  
5 such as, thinks it's a live person when, in fact, it is an  
6 answering machine?

7 MR. READ: Objection to the form.

8 A There is no single outbound dialing system, there  
9 are four distinct outbound dialing systems. The  
10 answering-machine detection and live-person detection is  
11 actually done outside the dialing system by the media  
12 server.

13 Q Okay. The media server --

14 A And certainly it is not 100 percent accurate with  
15 live-person detection.

16 Q Does the outbound dialing system have the  
17 capacity to distinguish between U.S. numbers and Canadian  
18 numbers?

19 A Each of the outbound dialing systems -- no, I  
20 don't --

21 Q You said -- let me ask this. I live in Detroit.  
22 Next to me is Windsor; their area code is 519, if you dial  
23 519 plus seven digits, you're going to get a phone number  
24 that is Canadian. My question is: Can your system be  
25 programmed -- does it have the capacity to distinguish

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1 between a U.S. number and a Canadian number?

2 MR. READ: Objection to the form of the question.

3 A That's not a feature or function of any of the  
4 outbound dialing systems.

5 Q (By Mr. Thomas) I'm not saying what is a  
6 feature, I'm saying, does it have the capacity to  
7 distinguish between a U.S. number and a Canadian number?

8 MR. READ: You use the word "capacity" a lot, and  
9 I think you and the witness may have a different  
10 definition. You can answer if you can.

11 A I don't know. I don't believe so because there  
12 is no purpose for the outbound dialing system based on the  
13 functions that it provides to need to differentiate  
14 between --

15 Q (By Mr. Thomas) What if a customer -- a client  
16 had inadvertently put in a Canadian number, does your  
17 system have the ability to catch it and say, Nope, that's a  
18 Canadian number, I'm not going to dial. Does it have the  
19 capacity to do that?

20 MR. READ: Object to the form.

21 A The outbound dialing systems could catch an area  
22 code and restrict that call from going out if the client  
23 said they didn't want calls to that area to go out.

24 Q (By Mr. Thomas) So it has the capacity to  
25 distinguish or block calls going out to Canada?

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1 MR. READ: Objection to the form.

2 A If a client didn't want calls to go to Canada,  
3 they could configure any of the outbound dialing systems to  
4 not allow calls to go to Canada.

5 Q So it can block -- it can be configured to block  
6 numbers to Canada, correct?

7 MR. READ: Objection to form.

8 A Each of the outbound dialing systems has the  
9 ability to block numbers to Canada if the client configured  
10 it to do so.

11 Q (By Mr. Thomas) Now, the outbound dialing  
12 systems or the platform, it could not work if there was no  
13 data lines between Stellar and LiveVox?

14 A Is that a question?

15 Q Yes.

16 A No, I wouldn't say that at all.

17 Q So if we took connections from Stellar and  
18 LiveVox, the system could keep on calling customers even  
19 though there is no connection between Stellar and LiveVox,  
20 is that your testimony?

21 A The outbound dialing system could launch calls,  
22 as I mentioned earlier, without ACD, without any agents.  
23 None of the other systems, the manual outbound dialing  
24 system, the HCI dialing system, or the Preview-All dialing  
25 system could ever launch a call without that agent.

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1 Q Because it's configured that way, correct?

2 A Because it was architected that way.

3 Q What do you mean by that?

4 A Built that way.

5 Q Built that way?

6 A Built that way.

7 Q So the HCI was built that way, so it would not  
8 leave messages on -- prerecorded messages on answering  
9 machines or with a live person, it was built that way?

10 A HCI was architected and built to ensure that no  
11 prerecorded automated messages were left to a live customer  
12 or an answering machine, yes.

13 Q I'm going to show you what has been previously  
14 marked as Exhibit No. 7. I'm going to represent to you  
15 that Plaintiff's No. 7 are incoming calls from the I.D.  
16 number that's represented by Stellar. Okay?

17 A Okay.

18 Q All right. And there are 49 incoming calls  
19 represented on Plaintiff's No. 7.

20 A Yes.

21 Q Okay. And then on Plaintiff's 15 -- do you have  
22 15 over there?

23 A I do have 15.

24 Q Okay. I believe -- this might make it a little  
25 easier for you. Let me just give you Plaintiff's No. 5.

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1 MS. EMERY: That's this, right?

2 MR. READ: No.

3 MR. THOMAS: She's right. She's right.

4 MR. READ: It's different. It might be  
5 subsequently the same but, it's different.

6 Q (By Mr. Thomas) Do you see Plaintiff's No. 5?

7 A I do.

8 Q And at the top it says, 12 outbound RPC and 19  
9 outbound HCI. Do you see that?

10 A I do.

11 Q And nine inbound, correct?

12 A I see that.

13 Q Okay. What is the 12 outbound RPC? What does  
14 that mean?

15 A I'm assuming that there's 12 of the phone  
16 calls on this report, 12 of them were made through the  
17 automated outbound dialing system.

18 Q The RPC system?

19 A It's the automated outbound dialing system, RPC  
20 is a contact strategy.

21 Q I'm just reading 12. Would you agree with me 12  
22 outbound?

23 A Yeah, 12 outbound RPC.

24 Q Okay. And then there was 19 outbound HCI. Do  
25 you see that?

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1 A I do.

2 Q And if you add 12 and 19 together you get what,  
3 33? Strike that. 31?

4 A 31.

5 Q 31. So based on knowing your system, why would  
6 it show 31 on the latitude that was provided by your  
7 client -- your employer and then the metro PCS shows 49.  
8 And if you don't have the answer, I will accept that, too.

9 A I don't know the answer to that question.

10 Q I'll take the seven, too. I just want to review  
11 my notes, so...

12 MR. THOMAS: Let's go off the record.

13 (Recess from 2:03 p.m. to 2:07 p.m.)

14 MR. THOMAS: Let's go back on the record. I have  
15 no further questions.

16 EXAMINATION

17 BY MS. EMERY:

18 Q Mr. Stark, Mr. Thomas asked you some questions  
19 about this document which lists all the calls made by  
20 Stellar to the identified cell phone number. Are you  
21 familiar, in general, how these documents are kept in the  
22 normal course of business and how they're compiled.

23 MR. THOMAS: Could you just -- what exhibit --

24 MR. READ: It's Exhibit 15.

25 A I'm generally familiar with this report.



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1           Q     (By Ms. Emery) Is it your understanding that  
2     when a report like this is run by LiveVox, all of the calls  
3     that were made to this number are generally reflected in  
4     this document?

5           A     Yes.

6           Q     Okay. Have you ever seen an instance where the  
7     call was made using a LiveVox system that wasn't later  
8     reflected on a report that lists calls made to that number?

9           A     None that I'm familiar with.

10          Q     Can you think of any reason why Plaintiff's  
11     records would differ from the records of LiveVox and  
12     Stellar, with regard to the calls that were made to that  
13     particular number?

14               MR. THOMAS: I object. They're metro PCS  
15     records.

16               MS. EMERY: Metro PCS records.

17               MR. THOMAS: You can answer.

18          A     Outside of some technical glitch or user error,  
19     there is nothing that comes to mind.

20          Q     (By Ms. Emery) Is it safe to say that you're  
21     pretty confident that this particular document reflects all  
22     the calls that were made to this listed cell phone number  
23     by Stellar Recovery using LiveVox?

24          A     I have no reason to suspect the accuracy of this.

25          Q     Thank you.

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1 A Question the accuracy of this, excuse me.

2 Q Close enough. How would you describe the type of  
3 call service provider that LiveVox is with regard to  
4 Stellar? Is it safe to say that they are a hosted  
5 provider?

6 A We are a hosted provider, yes.

7 Q And how do customers like Stellar access the  
8 LiveVox software?

9 A Through the Internet.

10 Q And how is that done, exactly? What is the  
11 process for them to access the software?

12 A They go to a specific website. Agents have one  
13 URL or address they go to, managers would have another, and  
14 they log in with credentials that have been provided by our  
15 customer.

16 Q Does every client go to the same website to log  
17 in, or is that different?

18 A No. They could, generally, they do not.

19 Q Okay. What does the term, "human-initiated  
20 dialing" mean?

21 A It means the call was launched by direct human  
22 intervention -- direct human action.

23 Q And under the LiveVox HCI platform, what does  
24 that direct human action generally consist of?

25 A A click of the mouse or press the enter on the

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1 keyboard.

2 Q Okay. How long has the HCI system or platform  
3 been available to customers of LiveVox?

4 A I want to say January, but I'll say first quarter  
5 of 2014.

6 Q Were you involved in the design or engineering of  
7 the HCI system?

8 A Yes.

9 Q What was your role with regard to the design of  
10 the engineering?

11 A I was in my present role as director of product  
12 management, so I would take input from all stakeholders and  
13 instruct engineering on how to architect and build the  
14 application.

15 Q Is it fair to say that the architecture and the  
16 development of the HCI system was a lengthy process and  
17 involved a lot of input from a lot of different sources?

18 A Certainly.

19 Q And as I understand it, and correct me if I'm  
20 wrong, HCI was actually designed and engineered to not be  
21 capable of automated or predicted dialing; is that correct?

22 A That is correct.

23 Q What does the term "predicted dialing" mean to  
24 you?

25 A Predicted dialing generally relates to the

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1 predicted algorithm used to predict the subsequent future  
2 availability of an agent.

3 Q And the HCI system is not capable of doing that;  
4 is that correct?

5 A That is absolutely correct.

6 Q Does the HCI system include both software and  
7 hardware? Does it have both those components?

8 A It does.

9 Q And the software and the hardware that are  
10 utilized in the HCI system, are those shared with any of  
11 your other calling systems or platforms?

12 A No.

13 Q Then those are unique -- would it be fair to say  
14 those are unique to the HCI system?

15 A That would be an accurate statement.

16 Q And is the HCI software different from the  
17 software that's utilized by your other calling systems?

18 A Yes.

19 Q How is it different?

20 A In architecture and deployment designed,  
21 specifically around TCPA risk mitigation.

22 Q Basically the system is designed to comply with  
23 TCPA, is that fair to say?

24 A That is absolutely a correct statement.

25 Q How are the HCI calls routed? Is it done through

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1 a set of servers or some other method?

2 A The ACD is the primary component in LiveVox. The  
3 LiveVox platform is responsible for routing calls.

4 Q What does ACD stand for?

5 A Automated -- or automatic call distributor.

6 Q What -- we talked a little bit about clicker  
7 agents and the role that they play in the HCI platform.  
8 What information does a clicker agent have at their  
9 disposal when the calls are presented to them?

10 A They have the phone number of the customer, the  
11 individual to whom the call would go out, they have their  
12 phone number, they also have information related to the  
13 availability of those closer agents.

14 Q Closer agents are the ones that do the  
15 communication with the consumer; is that correct?

16 A That's correct.

17 Q Does the clicker agent exercise any judgment when  
18 launching phone calls?

19 A They have the ability to absolutely do so based  
20 on the information provided to them.

21 Q Okay. And when the clicker agent is logged into  
22 the HCI -- do you prefer to say platform or system?

23 A Outbound dialing system.

24 Q So if I said the HCI blank, you would say system  
25 or platform?

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1 A System.

2 Q So when the clicker agent is logged into the HCI  
3 system, can they also be logged into another outbound  
4 dialing system?

5 A Absolutely not.

6 Q Okay. Does the LiveVox HCI system have the  
7 ability to autodial?

8 A Absolutely not.

9 Q Does it have the ability to store or produce  
10 numbers to be called using a random or sequential number  
11 generator?

12 A It has neither of those.

13 MS. EMERY: I don't have any additional  
14 questions.

15 MR. READ: I don't have any questions.

16 MR. THOMAS: I just have a few follow-ups.

17 EXAMINATION

18 BY MR. THOMAS:

19 Q The ACD, the automatic call distributor, is used  
20 with the HCI, it's also used with the manual, it's used  
21 with the Preview -- or the RPC, and also the automated,  
22 correct?

23 MS. EMERY: Object to the form.

24 Q (By Mr. Thomas) Automatic call distributor, it's  
25 used with each one of these?

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1           A     ACD exists outside of all the outbound dialing  
2     systems.

3           Q     But each one -- go ahead. I'm sorry.

4           A     But it -- there is and can be communication  
5     between ACD and each of the outbound dialing systems.

6           Q     Right. But you testified earlier if you took the  
7     automatic call distributor out, each platform could not  
8     work?

9           A     With the exception -- I believe what I stated was  
10    the manual outbound dialing system, the HCI outbound  
11    dialing system, the Preview-All dialing system would  
12    affectively be inert without ACD. The automated dialing  
13    system could function in some limited capacity without ACD.

14          Q     Okay. And the manual, the HCI, the Preview, each  
15    one has to have the media server pool, correct?

16          A     Yes. That's the gateway to the carriers, without  
17    it calls can't go out.

18               MR. THOMAS: I'm done.

19               MS. EMERY: I'm done.

20               MR. READ: Done.

21               (The deposition concluded at 2:18 p.m.)

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## REPORTER CERTIFICATE

I, JOANNA L. CHAVEZ, Court Reporter, and Notary Public, appointed to take the deposition of

KEVIN STARK,

certify that prior to the deposition the witness was sworn by me to tell the truth, that the deposition was taken by me at 2 West Dry Creek Circle, Littleton, Colorado, on June 15, 2016.

I certify that the proceedings were reduced to typewritten form by computer-aided transcription consisting of 62 pages herein; that the foregoing is an accurate transcript of the proceedings.

I certify that I am not related to, employed by, of counsel to any party or attorney herein, nor interested in the outcome of this litigation.

Attested to by me this 20th day of June, 2016.

  
Joanna L. Chavez

My commission expires March 9, 2019